

## 48A C.J.S. Judges § 138

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### V. Discipline, Suspension, or Removal

#### D. Proceedings

#### 5. Hearing and Determination

### § 138. Dismissal

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(5.1)

**A judicial commission has the discretion under a statute to dismiss without investigation a complaint regarding alleged misconduct of a judge.**

A judicial commission has the discretion under a statute to dismiss without investigation a complaint regarding alleged misconduct of a judge.<sup>1</sup> A complaint which is not in compliance with the rules governing pleadings in disciplinary proceedings may be dismissed,<sup>2</sup> and a pleading which fails to allege a ground for discipline or removal is also subject to dismissal.<sup>3</sup>

The charges may not be dismissed on the ground that members of the disciplinary body are subject to investigation,<sup>4</sup> on the basis of prejudicial publicity from that body, where confidentiality has been waived,<sup>5</sup> or on other grounds which do not render the complaint ineffectual.<sup>6</sup>

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## Footnotes

- 1 N.Y.—*Mantell v. New York State Com'n on Judicial Conduct*, 181 Misc. 2d 1027, 697 N.Y.S.2d 494 (Sup 1999), judgment aff'd, 277 A.D.2d 96, 715 N.Y.S.2d 316 (1st Dep't 2000).
  - 2 Ohio—*Smith v. Kates*, 46 Ohio St. 2d 263, 75 Ohio Op. 2d 318, 348 N.E.2d 320 (1976).
  - 3 N.Y.—*Muka v. Bryant*, 44 A.D.2d 611, 352 N.Y.S.2d 693 (3d Dep't 1974).
  - 4 N.Y.—*Matter of Byrne*, 420 N.Y.S.2d 70 (Jud. Ct. 1979).
  - 5 N.Y.—*Matter of Owen*, 413 N.Y.S.2d 815 (Jud. Ct. 1978).
  - 6 Pa.—*In re Dandridge*, 462 Pa. 67, 337 A.2d 885 (1975).
- Discovery violations**  
Ark.—*Arkansas Judicial Discipline and Disability Com'n v. Proctor*, 2010 Ark. 38, 360 S.W.3d 61 (2010).

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